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97TH CONGRESS
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SENATE

REPORT
No. 97-508

COMPLETED

BURNS PAIUTE TRIBE AS BENEFICIARY

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JULY 28 (legislative day, JULY 12), 1982.—Ordered to be printed

Mr. COHEN, from the Select Committee on Indian Affairs,
submitted the following

REPORT

[To accompany S. 1468]

The Select Committee on Indian Affairs, to which was referred the bill (S. 1468) to provide for the designation of the Burns Paiute Tribe as the beneficiary of a public domain allotment, and to provide that all similarly situated lands in Harney County, Oregon, will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

The amendment is as follows:

1. On page 2, following section 2 insert the following new section:

SEC. 3. Section 2 of the Act of November 24, 1942 (56 Stat. 1022, 25 U.S.C. 373b) is amended by deleting "2,000" and inserting in lieu thereof "50,000".

PURPOSE

To provide that a public domain allotment in estate of a Burns Paiute Indian, Jesse J. James, be taken into trust by the United States for the Burns Paiute Tribe and to provide that, in the future, interests in all Burns Paiute allotments on the public domain in Harney County, Oregon that are in estates of intestate Indians who have died without heirs, shall be taken into trust by the United States for the benefit of the Burns Paiute Indian Colony of the Burns Paiute Indian Reservation.

S. 1468, as amended, provides further that the value of public domain allotments in the intestate Indians who die without heirs that are subject to being taken into trust for the benefit of Indians at the discretion of the Secretary of the Interior shall be increased from the current amount of \$2,000 to \$50,000.

BACKGROUND

On January 12, 1978, Jesse J. James, a Burns Paiute Indian, died intestate. Mr. James' estate included a public domain allotment of 160 acres and the Office of Hearings and Appeals in the Department of the Interior, concluded that, under applicable law of the State of Oregon, Mr. James had no heirs. A final order of escheat was entered by the administrative law judge on May 30, 1980.

The Board of Indian Appeals later ruled that the James' allotment could not be taken in trust by the United States for the Burns Paiute Tribe at the discretion of the Secretary of the Interior because its value exceeded the \$2,000 limitation set forth in 25 U.S.C. 373b.

The James' allotment is located about 12 miles from the Burns Paiute Colony's tribal trust land. It is one of numerous such allotments which taken together total 10,854 acres. The Burns Paiute Tribe occupies a reservation of about 770 acres and has stated its intention to use the additional 160 acres in the James' allotment for agricultural purposes. The Tribe believes this allotment will increase tribal income, reduce its dependence on the Bureau of Indian Affairs, and provide greater employment for tribal members.

LEGISLATIVE HISTORY

S. 1468 was introduced on July 14, 1981 by Senator Mark Hatfield and was referred to the Select Committee on Indian Affairs. On November 18, 1981, the Indian Affairs Committee held a hearing on the bill.

COMMITTEE RECOMMENDATION

The Select Committee on Indian Affairs, a poll of its members completed on February 25, 1982, unanimously recommends that the Senate pass S. 1468, as amended.

COMMITTEE AMENDMENTS

The Select Committee on Indian Affairs, by a poll of its Members completed on February 25, 1982, adopted the following amendments: On page 2, following section 2 inset the following new section:

SEC. 3. Section 2 of the Act of November 24, 1942 (56 Stat. 1022, 25 U.S.C. 373b) is amended by deleting "2,000" and inserting in lieu thereof "50,000."

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 1468, as amended, as provided by the Congressional Budget Office, is outlined below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., February 18, 1982.

HON. WILLIAM S. COHEN,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1468, a bill to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oregon, will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony, as amended and ordered reported by the Senate Select Committee on Indian Affairs, February 11, 1982.

Based on this review, it is expected that no additional cost to the government would be incurred as a result of enactment of this bill. The bill allows the U.S. government to take into trust particular public domain allotments under particular circumstances noted in the bill.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin,
Director).

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill.

The Committee believes that S. 1468, as amended, will have no regulatory or paperwork impact.

EXECUTIVE COMMUNICATION

The legislative report on S. 1468 received by the Committee from the Department of the Interior is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., November 16, 1981.

HON. WILLIAM S. COHEN,
*Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for our view on S. 1468, a bill "To provide for the designation of the Burns Paiute

Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oregon, will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony."

We have no objection to the enactment of S. 1468, if amended as suggested herein.

S. 1468 would authorize the Secretary of the Interior to hold in trust for the Burns Paiute Indian Colony of Oregon, as part of their reservation, a public domain allotment that is included in the estate of a Burns Paiute Indian who died in 1978 with no heirs. Section 2 of the bill would provide that interests in all Burns public domain allotments that are located in Harney County, Oregon, and were owned by an Indian dying intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation.

Jesse J. James, a Burns Paiute Indian and owner of a 160-acre public domain allotment, died on January 12, 1978. His estate has been probated by the Portland Office of Hearings and Appeals, Department of the Interior, and in accordance with Oregon state law governing intestate succession that office determined that Jesse J. James had no heirs. Decendants who were not eligible to inherit under Oregon State law petitioned to have the case reopened. Their petition was granted. However, the additional evidence which was presented only served to support the original findings. Pursuant to the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), the Administrative Law Judge issued a Final Order of Escheat on May 30, 1980. The case was then referred to the Interior Board of Indian Appeals which determined that congressional action was necessary for the property to escheat to the United States in trust for the Burns Paiute Indian Colony. Section 2 of the 1942 Act provides:

"That if the Secretary determines that the land involved lies within or adjacent to an Indian community and may be advantageously used for Indian purposes, the land or interest therein shall escheat to the United States to be held in trust for such needy Indians as the Secretary of the Interior may designate, where the value of the estate does not exceed \$2,000, and in case of estates exceeding said sum, such estates shall be held in trust by the United States for such Indians as the Congress may hereafter designate, subject to all valid existing agricultural, surface, and mineral leases and the rights of any person thereunder."

Although no formal appraisal of the subject property exists, the Bureau of Indian Affairs has estimated the value of the property to be \$9,600. It is located twelve miles from the existing Burns Paiute Colony Tribal trust land, and is one of the many Burns Paiute public domain allotments, totalling 10,854 acres, concentrated in an area just east of Burns, Oregon. We believe that transfer of this land to the tribe is in keeping with the Congressional intent of the 1942 Act.

We also support the intent of section 2 of S. 1468. We believe, however, that section 2 of the bill could be amended to solve permanently the problem created by the \$2,000 limitation in the 1942 Act, by amending it to read as follows:

"SEC. 2. Section 2 of the Act of November 24, 1942 (56 Stat 1022; 25 U.S.C. 373b) is amended by deleting, "\$2,000" and inserting in lieu thereof "\$50,000".

This amendment would increase the 1942 \$2,000 limitation to \$50,000, thus removing the need for Congressional consideration of the disposition of lands valued at less than that amount.

The Office of Management and Budget had advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

KENNETH L. SMITH,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes the following change in existing law: The Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b) is amended to increase the value of to which the Act pertains which may be taken in trust for an Indian tribe at the discretion of the Secretary of the Interior from \$2,000 to \$50,000.

A BILL To provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oregon, will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), the estate of Jesse Joseph James, Burns 144-N1116, consisting of a public domain allotment, Burns Paiute domain allotment numbered 144-111, northwest quarter, section 32, township 23 south, range 32½ east, Willamette meridian, Harney County, Oregon, is hereby declared to be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and part of the Burns Paiute Indian Reservation.

SEC. 2. Section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), is amended by inserting the following immediately before the period at the end thereof: "*Provided further,* That interests in all Burns public domain allotments located in Harney County, Oregon, belonging to Indians who die intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation".